

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MARIO NOYOLA,

Plaintiff,

v.

LT. KERRI ADLER and SGT. SCOTT
PONOZZO, individually and in their
official capacities,

Defendant.

NO: CV-12-196-RMP

ORDER DENYING DEFENDANTS'
MOTION TO RECONSIDER

Before the Court, without oral argument, is Defendants' Motion for Reconsideration, ECF No. 46. Having reviewed the file and pleadings in this matter, the Court is fully informed.

Defendants object to the Court's granting Mr. Noyola, a pro se plaintiff, a thirty (30) day continuance in which to file his Second Amended Complaint. Defendants argue that Mr. Noyola has failed to present good cause for being granted the additional thirty days, despite Mr. Noyola's representations that he has

1 been transferred to a different correctional facility and that there had been a delay
2 in his receiving his legal documents because of the move.

3 Having reviewed Defendants' arguments and being mindful of the Ninth
4 Circuit's jurisprudence allowing pro se litigants procedural leeway in prosecuting
5 their cases, the Court denies Defendants' Motion for Reconsideration and adheres
6 to its prior Order, ECF No. 45. See *Solis v. County of Los Angeles*, 514 F. 3d 946,
7 956 n. 12 ("[W]e have consistently held that procedural requirements should be
8 more liberally construed for *pro se* litigants.") (internal citations omitted).

9 Accordingly, **IT IS HEREBY ORDERED:**

10 1. Defendants' Motion for Reconsideration, **ECF No. 46**, is **DENIED**.

11 2. Plaintiff shall file his complaint titled "**SECOND AMENDED**
12 **COMPLAINT**" on or before **February 28, 2013**.

13 3. If a new complaint is not filed **by February 28, 2013**, the Court will
14 dismiss this case with prejudice and close this file.

15 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
16 Order and provide copies to Plaintiff and to counsel. The case management
17 deadline remains set for **February 28, 2013**.

18 **DATED** this 25th day of January 2013.

19
20 s/ Rosanna Malouf Peterson
ROSANNA MALOUF PETERSON
Chief United States District Court Judge